

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIE E. TOWNSEND,  
Plaintiff,  
v.  
C. MUNDEN et al.,  
Defendant

CASE NO. C10-5391BHS/JRC

ORDER GRANTING A STAY OF  
DISCOVERY

This 42 U.S.C. § 1983 civil rights action has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and Local Magistrate Judge's Rules MJR 1, MJR3 and MJR4.

Defendants, through counsel, ask the Court to stay discovery (ECF No. 14) while a Motion to Dismiss (ECF No. 13) is pending. The Motion to Dismiss is based on an adequate post-deprivation remedy, the Eleventh Amendment, and qualified immunity. Plaintiff asks that the motion be delayed one week (Motion for an Extension of Time to Respond, ECF No. 15).

1 The motion will not be delayed. The motion to extend time is DENIED. The motion to stay  
2 discovery is GRANTED.

3 Pursuant to Fed. R. Civ. P. 26(b)(2)(C),

4 The court must limit the frequency or extent of discovery otherwise allowed by  
5 these rules or by local rule if it determines that: . . . (iii) the burden or  
6 expense of the proposed discovery outweighs its likely benefit, considering the  
7 needs of the case, the amount in controversy, the parties' resources, the  
8 importance of the issues at stake in the action, and the importance of the  
discovery in resolving the issues.

9 "Trial courts have broad discretion and inherent power to stay discovery until preliminary  
10 questions that may dispose of the case are determined". Hahn v. Star Bank, 190 F.3d 708, 719  
11 (6th Cir. 1999). The issues involved in the motion to dismiss are legal rather than factual.  
12 Further, qualified immunity generally bars discovery until the issue of immunity is considered.  
13 Therefore, discovery shall be stayed until the Court's resolution of defendant's Motion to  
14 Dismiss.

15 The Clerk's Office is directed to send Plaintiff a copy of this Order.

16 DATED this 15<sup>th</sup> day of November, 2010.

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20 J. Richard Creatura  
21 United States Magistrate Judge  
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